



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 26, 1996

Mr. Gary L. Henrichson
City of Edinburg
Office of the City Attorney
P.O. Box 1079
Edinburg, Texas 78540

OR96-1532

Dear Mr. Henrichson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID# 37420 and ID# 37530.

The City of Edinburg (the "city") received two requests for daily dispatch logs. The first request is for dispatch logs during a particular period of time. The second request is for "routine, on-going, access to the police department's daily dispatch logs." You did not claim any exceptions to disclosure for the first request for information. In response to the second request, you claim that sections 552.101 and 552.108 of the Government Code except the information from required public disclosure and incorporate by reference arguments presented by another governmental body in an unrelated request for a ruling.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. The seventy-fourth legislature amended article 6701d, Vernon's Texas Civil Statutes, in House Bill 391 to provide that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413 (Vernon). This act, however, applies only to "accident reports" required by article 6701d, Vernon's Texas Civil Statutes,

or article 6701h, Vernon's Texas Civil Statutes.¹ Section 550.064 of the Transportation Code, formerly part of article 6701d, provides that the Texas Department of Transportation shall prepare and, upon request, supply accident report forms to suitable agencies or individuals. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 1, 1995 Tex. Sess. Law Serv. 1025, 1694-95 (Vernon) (to be codified at Transportation Code § 550.064). The statute sets out the information that must be included in those forms. *Id.* Section 601.004 of the Transportation Code, formerly part of article 6701h, similarly provides for accident report forms to be prepared by the Department of Public Safety. *Id.*, 1995 Tex. Sess. Law Serv. at 1705-06. As "dispatch logs" do not fall within the definition of "accident reports" that are addressed in House Bill 391, this law does not apply to the requested dispatch logs. Therefore, the city may not withhold the requested information under section 552.101 of the Government Code in conjunction with the new legislation regarding accident reports.

Section 552.101 also excepts from disclosure information that if disclosed would constitute an invasion of an individual's privacy. Information must be withheld from disclosure under a common-law right of privacy if the information is highly intimate or embarrassing *and* if it is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 682 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 328 (1982). You have not explained how the limited type of information contained in the daily log sheets would meet this test. Additionally, we note that there may exist other types of information in the dispatch logs that are confidential pursuant to various statutory provisions. Section 552.352 of the Government Code provides that distribution of confidential information is a misdemeanor offense and constitutes an act of official misconduct. We have enclosed a list of confidentiality provisions that may be applicable.

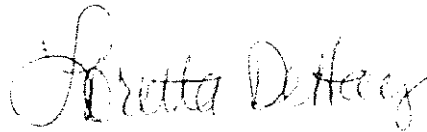
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). In Open Records Decision No. 394 (1983), this office determined that there was no qualitative difference between the information contained in police dispatch records and that which was expressly held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per*

¹Effective September 1, 1995, these statutes were repealed and replaced with the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71 (Vernon). The legislature did not intend a substantive change of the law but merely a recodification of existing law. *Id.*, § 25, 1995 Tex. Sess. Law Serv. at 1871. As the new law took effect on September 1, 1995, we will refer to the new law in this ruling.

curiam, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing holding in *Houston Chronicle*). We conclude that the requested information may not be withheld from disclosure pursuant to section 552.108. Therefore, the requested records must be released unless a confidentiality provision prohibits disclosure of individual entries into the dispatch logs.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 37420, ID# 37530

Enclosures: Submitted documents

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